

another materially different product, in particular, an artificial ureter. Applicants traverse.

**Applicant's response**

While applicant's invention as presently set forth in the claims is directed to vascular, i.e., blood carrying, vessels, and ways of making them, it is the vessel itself, not what it carries, that is key to the invention. The "vessel" is essentially a flexible tube. Whether used to transports blood or urine, such a tube would not itself be materially different. Genetically altered endothelial or smooth muscle cells, as set forth in the present application, would be used in either form of synthetic tube for exactly the same purpose, i.e., to improve biocompatibility and patency. The primary problem that would be overcome using genetically engineered ECs and/or SMCs would likewise the same – prevention of detachment of cells from the luminal surface of the tube caused by sheer stress induced by moving liquid, be it blood or urine. Thus, applicant believes that a synthetic ureter would not be materially different from a blood vessel and the test for distinctiveness is not met.

Applicants respectfully request that the examiner reconsider the restriction and permit the examination of Groups I and III together.

**CONCLUSION**

Applicants hereby request a three (3) month extension in time to respond to this restriction requirement. The commissioner is authorized to charge LYON & LYON, LLP Deposit Account No. 12-2475 for the required amount.

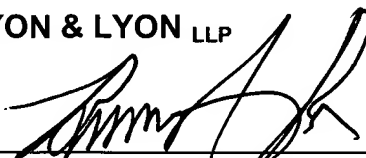
Respectfully submitted,

LYON & LYON LLP

Date

4/1/02

By:



Bernard F. Rose  
Reg. No. 42,112

633 West Fifth Street, 47th Floor  
Los Angeles, California 90071-2066  
Tel. No. (408) 993-1555  
Fax No. (408) 287-2664